In the Supreme Court of the United States

OCTOBER TERM, 1970

No. 1642

MARVIN T. KARGER, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

Petitioner pleaded guilty in the United States District Court for the District of Massachusetts to eighteen counts charging violations of 18 U.S.C. 2315, which punishes the knowing pledging of stolen securities that are worth more than $500 and have moved in interstate commerce. He was sentenced to a total of twelve years' imprisonment.

Prior to the plea, petitioner had raised various claims, including (1) a right to a preliminary hear-

ing notwithstanding the intervening return of an indictment; (2) multiplicity in the indictment; and (3) the invalidity of Section 2315 because courts have permitted juries to draw the inference necessary for conviction upon finding that the defendant recently possessed the stolen securities. On direct appeal from the plea of guilty, petitioner sought to raise these contentions. The court affirmed the conviction, holding that the plea of guilty had waived the claims (Pet. App. A). This ruling was clearly correct.

It is therefore respectfully submitted that the petition for a writ of certiorari should be denied.

ERWIN N. GRISWOLD,
Solicitor General.

MAY 1971.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1971 425590 658